by him to be established by such testimony. While using this sketch for this purpose, upon objection by the state that its accuracy was not proven, he was stopped and its further use prevented. The court reviewing the trial sustained the ruling of the lower court. This clearly appears from the opinion, although the syllabus of the case makes a directly opposite claim. *State* v. *Bramlett* (S. C., 1920), 103 S. E. 755.

These cases are directly opposed in their understanding of the controlling principle, or it is better said, the court in the case last mentioned failed to perceive the applicable principle. Of course counsel in argument should not be allowed to present facts to the jury and ask it to accept them upon the credit of his statement. Counsel does have the right however, to insist that the evidence in the case does establish the existence of particular facts which it tends to prove, and if he can better assist the jury to appreciate his contention by a graphical presentation of his idea than by spoken words alone, there is no reasonable objection to his so presenting it. As well might he be shackled in hand and foot lest by some gesture he make more emphatic and clear his contention, or forbidden to use illustration not proven in the case, lest the same result should follow. Witnesses are continually being allowed to present their ideas by the use of such aids, and why should not counsel have the same right? It is no answer that the witness is speaking under oath. True he is under oath, and he is not permitted to express his ideas unless he is, but counsel *is* permitted to express his ideas without taking any save his official oath. It is nonsense to say that he may present his ideas to the jury without oath if he does so by spoken words, but must be under oath if he would present them graphically. There can be no possible legal objection to the presentation by counsel in argument of a sketch of a "genealogical tree," and pointing out to the jury that the branches indicate the several kindred shown by the testimony to have kinship with a particular person, and that certain of those there indicated are by the testimony shown to have been insane, or to have committed suicide, where those facts are material.

V. H. L.

CRIMINAL LIABILITY OF CORPORATIONS.—The present-day tendency of holding criminal law applicable to corporations as well as persons in the ordinary sense is strikingly shown in *State* v. *Lehigh Valley R. Co.* (New Jersey, 1920), 111 Atl. 257, where, under an indictment for manslaughter by causing a person's death through the negligent handling of a car loaded with ammunition, there being no statute involved, it was held that a corporation was indictable. The case has been before the court on several prior occasions, and was disposed of by holding that the common law had been modified by the decision of Chief Justice Green in *State* v. *Morris & Essex R. Co.* (1852), 23 N. J. L. 360, and the cases following that decision, and that under these authorities the indictment could be sustained. Four members of the court dissented, holding that the common law had not been changed to this extent, and that this point had not been decided by any of these prior decisions.

In *State* v. *Morris, supra,* a corporation was indicted for creating a nuisance by the obstruction of a highway, and held liable, but the Chief Justice said: "A corporation is not liable for a crime of which a 'malus animus' is an essential ingredient. The creation of a nuisance involves no such element." And Nevius, J., in the concurring opinion declared: "It was urged that a corporation cannot be guilty of a battery or murder. Be it so; yet it does not follow that it may not be guilty of erecting a nuisance." In *State* v. *Passaic Co. Agr'l Society,* 54 N. J. L. 260, the same question was presented, and the court in its affirmative answer said: "It is difficult to see how a corporation may be amenable to civil suit for libel, and malicious prosecution, and private nuisance, * * * and at the same time not be indictable for like offenses where the injury falls upon the public." The majority of the court evidently believe that these two cases have given them a rather free hand in applying criminal law to corporations, and are willing to go very far in holding them liable. The New Jersey constitution makes the common law the law of the state unless changed by statute, and there certainly is much force in the argument of the minority of the court that the court should apply the common law unless the legislature sees fit to change it.

The extent of the criminal liability of a corporation has been in dispute from the earliest days. Lord Holt is reported to have said that "a corporation is not indictable, though the particular members of it are," and although this rule has never been admitted, certainly for many years prior to 1840 the rule was that a corporation could be liable only for non-feasance. *State* v. *Great Works Co.,* 20 Me. 41. In the case of *Queen* v. *Great North of England Co.,* 9 Q. B. R. 315, the English courts—and the American courts in decisions to the same effect, *Commonwealth* v. *New Bedford Bridge,* 68 Mass., 339—extended the liability to matters of commission as well as omission, with the limitation that "a corporation cannot in general be indicted for ordinary crimes and misdemeanors such as involve a criminal or immoral intent, as treason, felony, or breach of the peace, nor for manslaughter, assault and battery, nor larceny." 10 Cyc. 1231. That these limitations are rapidly crumbling away is amply demonstrated by recent cases. The courts, when faced with the fact that a corporation could not have a *"mens rea,"* imputed the agent's evil intent to the corporation. The courts have held a corporation guilty of contempt, *Comm.* v. *Telegram Newspaper Co.,* 172 Mass. 294; of criminal libel, *People* v. *Star Co.,* 135 N. Y. App. Div. 517; for keeping a disorderly house, *State* v. *Passaic Co. Agr'l Society, supra;* for permitting gambling, *Comm.* v. *Pulaski Co. Agr'l Society,* 92 Ky. 197; for peddling without a license, *Standard Oil* v. *Comm.,* 21 Ky. L. R. 1339; for violating liquor laws, *U. S.* v. *Joplin Mercantile Co.,* 213 Fed. 926; for conspiracy, *U. S.* v. *Nearing,* 252 Fed. 223; and in a recent case in the United States Court for China, *U. S.* v. *Sin Wan Pao Co.,* No. 993 (1920), the court said, "there is no more difficulty in imputing to a corporation a specific intent in criminal proceedings than in civil," and held that the guilty intent of a Chinese servant of the corporation in accepting, without the knowledge of the directors, an obscene advertisement printed in the company's Chinese

newspaper, rendered the corporation liable in criminal proceedings under a United States statute.

That a corporation is not indictable for manslaughter or assault and battery, as these crimes involve an offense against the person, has received the sanction of the courts in *Comm.* v *.Punxsutawney R. Co.* (1900), 24 Pa. Co. Ct. 25; *Comm.* v. *Ill. Cent. RR. Co.* (1913), 152 Ky. 320; *Queen* v. *Gt. West Laundry Co.* (1900), 3 Can. Crim. Cas. 514. In the Pennsylvania case the court held that while a corporation is liable civilly for assault and battery committed by an employee, it cannot be indicted criminally for such a crime nor for manslaughter, saying "some courts have shown a tendency to enlarge on the criminal liability of corporations, but no court has gone as far as we are urged to go in this case." In *People* v. *Rochester Ry. Co.*, 195 N. Y. 102, the court refused to hold a corporation for manslaughter, but this was based on the peculiar wording of the New York statute defining manslaughter as the killing in a certain way "of one human being by another," and it was decided that the word "another" could only mean "another person" in the ordinary sense.

In contrast to these cases we find *Union Colliery Co.* v. *Queen* (1900), 31 Can. S. C. 81, in which a corporation was held liable for manslaughter under a statute, and the common law penalty of a fine inflicted, as the statute omitted any penalty, and the principle case in which the New Jersey court, relying on a line of cases holding a corporation indictable for maintaining a nuisance, holds a corporation indictable for voluntary or involuntary manslaughter, thus going as far as the Pennsylvania court refused to go in the earlier case. The explanation of these modern decisions is given by Justice Bigelow in *Comm. v. New Bedford Bridge, supra*, that with the great increase of corporations in modern society "the tendency of the more recent cases in courts of the highest authority has been to extend the application of all legal remedies to corporations, and assimilate them as far as possible, in their legal duties and responsibilities, to individuals." W. C. O'K.

MARRIED WOMEN—HUSBAND'S RIGHT TO WIFE'S SERVICES AND TO HER EARNINGS.—A Michigan statute passed in 1911 (LAWS OF 1911, ch. 196; COMP. LAWS 1915, § 11478) provided that a married woman should be "entitled to * * * earnings acquired * ** * as the result of her personal efforts." A married woman, before 1911, had worked as housekeeper for X and had continued to work for him after 1911; on his death she filed a claim against his estate for her services during the whole period. *Held,* she could not recover for the period before 1911, as her services and earnings prior to that date belonged to her husband. *In re Mayer's Estate* (1920), 210 Mich. 188, 177 N. W. 488.

Plaintiff and her husband were working on a farm belonging to defendant. Plaintiff did the house work, made butter, and took care of the chickens. She sued defendant for the value of her services after the passage of the Act of 1911. *Held,* that her services were rendered as a member of her husband's family, in her husband's home, and were the ordinary services